

AMENDED IN ASSEMBLY APRIL 24, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 2609

Introduced by Assembly Member Hueso

February 24, 2012

An act to amend Section 102 of, to add Sections 101.5, 107, and 108 to, and to repeal Section 106 of, the Fish and Game Code, and to amend Section 87200 of the Government Code, relating to the Fish and Game Commission.

LEGISLATIVE COUNSEL'S DIGEST

AB 2609, as amended, Hueso. Fish and Game Commission.

(1) The California Constitution establishes the 5-member Fish and Game Commission, with members appointed by the Governor and approved by the Senate. Existing law requires the commissioners to elect one of their number as president and one as vice president.

This bill would modify that election provision to instead require that the commissioners annually elect one of their number as president and one as vice president, by a concurrent vote of at least 3 commissioners. The bill would prohibit a president or vice president from serving more than 2 consecutive years *and would prohibit the commission from adopting or enforcing any other policy or regulation that would make a commissioner ineligible to be elected as president or vice president of the commission*. The bill would authorize the president or vice president to be removed from these positions by a vote, at any time, of at least 3 commissioners. The bill would require the commission to fill

a vacancy in either position at the next regularly scheduled meeting of the commission, as prescribed. The bill would require the commission to adopt a code of conduct that requires a commissioner to adhere to prescribed principles and, by July 1, 2013, to adopt rules to govern the business practices and processes of the commission. The bill would state the intent of the Legislature to encourage the Governor and the Senate Committee on Rules to consider certain minimum qualifications in selecting, appointing, and confirming commissioners to serve on the commission.

(2) Existing provisions of the Political Reform Act of 1974 prohibit a public official at any level of state or local government from making, participating in making, or attempting to use his or her official position to influence a governmental decision in which he or she knows or has reason to know that he or she has a financial interest, as defined. Existing law also requires specified elected and appointed officers at the state and local level of government to disclose specified financial interests by filing periodic statements of economic interests. Existing law further requires public officials who hold specified offices and who have a financial interest in a decision within the meaning of the Political Reform Act of 1974 to publicly identify the financial interest giving rise to the conflict of interest or potential conflict of interest, recuse themselves from discussing and voting on the matter, and leave the room until after the discussion, vote, and other disposition of the matter is concluded, except as specified. Other existing law requires the commission to adopt and approve a Conflict of Interest Code pursuant to the Political Reform Act of 1974.

This bill would directly subject commissioners to certain provisions of the Political Reform Act of 1974 by adding members of the commission to those specified officers who must publicly identify a financial interest giving rise to a conflict of interest or potential conflict of interest, and recuse themselves accordingly.

Existing law makes a violation of the Political Reform Act of 1974 subject to administrative, civil, and criminal penalties. This bill would impose a state-mandated local program by exposing these members to potential criminal penalties for failing to make the disclosures and recuse themselves where required by this bill.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes upon a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill would declare that it furthers the purposes of the act.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 101.5 is added to the Fish and Game
2 Code, to read:

3 101.5. (a) The Legislature finds and declares that the scope
4 and responsibilities of the commission have significantly expanded
5 over the years as the size and diversity of California's population
6 have increased, and as the scientific knowledge of the habitat
7 conservation and ecosystem-based management needs of wildlife
8 has expanded. The members of the commission are expected to
9 make complex public policy and biological decisions on behalf of
10 the people of California. The commission is created by the
11 California Constitution, which does not include any criteria or
12 qualifications for selection and appointment of commissioners.

13 (b) It is therefore the intent of the Legislature to encourage the
14 Governor and the Senate Committee on Rules to consider the
15 following minimum qualifications in selecting, appointing, and
16 confirming commissioners to serve on the commission:

17 (1) The degree to which the appointee will enhance the diversity
18 of background and geographic representation of the commission.

19 (2) The appointee's demonstrated interest and background in,
20 and familiarity with, wildlife and natural resources management
21 programs at the state or federal level.

22 (3) The appointee's previous experience in public policy
23 decisionmaking, including government processes involving public
24 participation.

25 (4) The appointee's commitment to prepare for and attend
26 meetings and subcommittee meetings of the commission and to
27 comply with all applicable state conflict-of-interest laws.

(5) The extent of the appointee's exposure to and experience with the basic science underpinning the management of living natural resources.

(6) The appointee's diversity of knowledge of natural resource issues and related scientific disciplines, including, but not limited to, outdoor recreation.

SEC. 2. Section 102 of the Fish and Game Code is amended to read:

102. (a) The commissioners shall annually elect one of their number as president and one as vice president, by a concurrent vote of at least three commissioners.

(b) No president or vice president shall serve more than two consecutive years.

(c) The president or vice president may be removed from the position of president or vice president by a vote, at any time, of at least three commissioners.

(d) In the event of a vacancy in either the position of president or vice president, the commission shall fill that vacancy at the next regularly scheduled meeting of the commission. The elected successor president or vice president shall serve for the unexpired term of the predecessor until the annual election pursuant to subdivision (a).

(e) Except as provided in subdivision (b), the commission may not adopt or enforce a policy or a regulation that provides for the president and vice president to be chosen by seniority nor may the commission adopt or enforce any other policy or regulation that would make a commissioner ineligible to be elected as president or vice president of the commission.

SEC. 3. Section 106 of the Fish and Game Code is repealed.

SEC. 4. Section 107 is added to the Fish and Game Code, to read:

107. The commission shall adopt a code of conduct that requires, at a minimum, that a commissioner adhere to the following principles:

(a) A commissioner shall faithfully discharge the duties, responsibilities, and quasi-judicial actions of the commission.

(b) A commissioner shall conduct his or her affairs in the public's best interest, following principles of fundamental fairness and due process of law.

1 (c) A commissioner shall conduct his or her affairs in an open,
2 objective, and impartial manner, free of undue influence and the
3 abuse of power and authority.

4 (d) A commissioner understands that California's wildlife and
5 natural resources programs require public awareness,
6 understanding, and support of, and participation and confidence
7 in, the commission and its practices and procedures.

8 (e) A commissioner shall preserve the public's welfare and the
9 integrity of the commission, and act to maintain the public's trust
10 in the commission and the implementation of its regulations and
11 policies.

12 (f) A commissioner shall not conduct himself or herself in a
13 manner that reflects discredit upon state laws or policies,
14 regulations, and principles of the commission.

15 (g) A commissioner shall not make, participate in making, or
16 in any other way attempt to use his or her official position to
17 influence a commission decision in which the member has a
18 financial interest.

19 SEC. 5. Section 108 is added to the Fish and Game Code, to
20 read:

21 108. By July 1, 2013, the commission shall adopt rules to
22 govern the business practices and processes of the commission.

23 SEC. 6. Section 87200 of the Government Code is amended
24 to read:

25 87200. This article is applicable to elected state officers, judges
26 and commissioners of courts of the judicial branch of government,
27 members of the Fish and Game Commission, members of the
28 Public Utilities Commission, members of the State Energy
29 Resources Conservation and Development Commission, members
30 of the Fair Political Practices Commission, members of the
31 California Coastal Commission, members of planning
32 commissions, members of the board of supervisors, district
33 attorneys, county counsels, county treasurers, and chief
34 administrative officers of counties, mayors, city managers, city
35 attorneys, city treasurers, chief administrative officers and members
36 of city councils of cities, and other public officials who manage
37 public investments, and to candidates for any of these offices at
38 any election.

39 SEC. 7. The Legislature finds and declares that Section 6 of
40 this act furthers the purposes of the Political Reform Act of 1974

1 within the meaning of subdivision (a) of Section 81012 of the
2 Government Code.

3 SEC. 8. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.